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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

SEAVIEW INSURANCE COMPANY,

Defendant and Appellant.

B264740

(Los Angeles County  
Super. Ct. No. SJ4054)

APPEAL from a judgment of the Superior Court of Los Angeles County.  
Leland B. Harris, Judge. Affirmed.

Mayra L. Garcia and Toni L. Martinson for Defendant and Appellant.

Office of County Counsel, Ruben Baeza, Jr., Assistant County Counsel, and  
Michael J. Gordon, Associate County Counsel, for Plaintiff and Respondent.

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Seaview Insurance Company (Seaview) appeals from the trial court's judgment following an order denying a motion for a second extension to vacate a bail bond forfeiture and exonerate the bond. (Pen. Code, § 1305.4.)<sup>1</sup> Seaview argues that the trial court abused its discretion in denying the extension because Seaview made diligent efforts and demonstrated a reasonable likelihood of apprehending the defendant, Juan Gonzalez.

We affirm.

### **BACKGROUND**

On April 21, 2014, Seaview posted a \$30,000 bond for the release of Gonzalez, who was arrested on drug charges. Gonzalez failed to appear at his arraignment hearing on May 6, 2014. The bond was ordered forfeited and the notice of forfeiture was mailed on May 8, 2014. By statute, Seaview had until November 10, 2014, to produce Gonzalez or show he was in custody to vacate the forfeiture and exonerate the bail bond. (§ 1305, subds. (b), (c)(1).)

#### **First motion for extension**

On October 31, 2014, Seaview filed its first motion to extend the appearance period. The motion was supported by the declaration of "pre-investigator" Ernest Villegas, who stated that he first checked whether Gonzalez was in custody in California, then attempted to contact Gonzalez and his bond application references by telephone. Villegas spoke with Gonzalez's listed indemnitor, Genavie Rangel, and another reference, Lilia Rangel, both of whom claimed they had no knowledge of Gonzalez's whereabouts and did not have any contact information. Villegas was not able to make further headway, and in July 2014, he transferred the investigation to a fugitive recovery agent.

Cruz Bustamante took over the investigation. He traveled to the listed home address of the indemnitor in Gardena. The location was not a residence, but a business in

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<sup>1</sup> All further statutory references are to the Penal Code.

an industrial area. Bustamante conducted surveillance but did not observe Gonzalez or the indemnitor. Several weeks later, he went to the indemnitor's listed workplace, a McDonald's in Gardena, but did not see her there. In August 2014, Bustamante went to Gonzalez's listed address in Lancaster. He conducted surveillance but did not see any activity. Later that month, he returned to the Lancaster property. He observed a woman exit the residence and drive away, and he saw a man who resembled Gonzalez in the backyard but could not get a clear view of him. He decided not to make contact because he did not want to alert Gonzalez.

Bustamante traveled again to the Lancaster location in September 2014 and spoke with a neighbor. The neighbor recognized Gonzalez as a possible relative of the family who lived at the listed address. The neighbor believed he saw Gonzalez several weeks earlier. Bustamante gave the neighbor his contact information and the neighbor agreed to call if he saw Gonzalez. Bustamante returned to the Lancaster property a couple weeks later and saw the same woman leave the residence. On a subsequent visit, Bustamante spoke to additional neighbors, who informed him that Gonzalez did not reside at the property but was often seen there. They agreed to call Bustamante if they saw Gonzalez. During another visit, Bustamante did not observe any activity at the house.

Bustamante returned to the McDonald's that the indemnitor listed as her workplace, but was told that she was not employed there. He also traveled to the business location she listed as her home address, but an employee at the location did not know the indemnitor. Bustamante conducted a database search and found a possible address for the indemnitor in Reno, Nevada.

On October 20, 2014, Bustamante went to an address listed as the home of Gonzalez's nephew in Los Angeles. A very large apartment complex was at the address, and no apartment number was listed. Bustamante spoke with local residents who said they recognized Gonzalez and had seen him at the location in the past, but not recently.

The trial court granted Seaview's extension request on December 4, 2014, extending the appearance period by 90 days, until March 4, 2015. At the hearing, the

trial court stated that Seaview had “barely” demonstrated good cause for an extension, “but enough to get . . . 90 days.”

### **Second extension request**

Seaview filed a second motion to extend the appearance period on February 24, 2015. Attached to its motion was the declaration of Michael Singleton.

Seaview’s investigation was reassigned from Bustamante to Singleton on December 3, 2014. Singleton called a telephone number listed for Gonzalez that Villegas had previously called. The number was not working. Over the following weeks he called other numbers that Villegas had already called. Singleton was not successful in obtaining any information from the calls.

On December 19, 2014, Singleton traveled to the Lancaster address. He conducted surveillance but did not see Gonzalez. He tried to speak with neighbors, but nobody was home. He then tried to locate Gonzalez’s nephew at the apartment complex in Los Angeles but did not observe Gonzalez or the nephew.

Even though Bustamante had already inquired about the indemnitor at the McDonald’s listed as her workplace, Singleton called the McDonald’s to try to locate the indemnitor. Not surprisingly, he was informed that the indemnitor did not work there. Bustamante had also previously determined that the address listed as the indemnitor’s residence was a business in an industrial area. Nevertheless, Singleton traveled to the address and conducted surveillance there but did not observe Gonzalez or the indemnitor.

On January 16, 2015, Singleton returned to the Lancaster location. He did not see Gonzalez or anyone else at the residence, but did speak to sheriff deputies patrolling in the area, who told him they would keep an eye out for Gonzalez.

On February 17, 2015, Singleton received information about a possible new address for Gonzalez’s nephew in Southgate. Singleton went to the location but did not observe any activity there.

Singleton returned to the Lancaster residence on February 18, 2015. He saw a vehicle parked in the driveway and determined that it was registered to the indemnitor. He then saw a woman and several children leave the house. He spoke with the woman,

who identified herself as Lilia Rangel, the indemnitor's sister and the mother of Gonzalez's three children. Lilia claimed she had not seen Gonzalez in quite some time, and said she was unhappy with Gonzalez and would help Singleton locate him. Lilia told Singleton that her sister, the indemnitor, lived in Reno. Singleton also spoke with a neighbor who said that he had seen Gonzalez at the residence about a week prior.

Subsequently, Singleton sent a request to investigators in Nevada to follow up at the address Bustamante, in October 2014, identified as the indemnitor's possible residence.

The trial court heard Seaview's second extension request on March 24, 2015. The court found no good cause for granting the extension, concluding that Singleton's efforts were too similar to prior efforts to locate Gonzalez. At the hearing, the court stated: "Frankly, I don't believe the surety has shown good cause for further extension because we're just doing the same thing. It's equivalent of going out in the hallway yelling down the hallway, 'Juan Gonzalez,' and doing that every day and reporting to the court that you've inquired as to the whereabouts of Juan Gonzalez on a consistent basis." The court entered summary judgment against Seaview in the amount of \$30,000, plus costs.

### **DISCUSSION**

Within 180 days of the forfeiture of a bail bond, the forfeiture will be vacated and the bond exonerated if the defendant appears in court. (§ 1305, subd. (c)(1).) Section 1305.4 provides that a surety may seek to extend this period, for an additional period not exceeding 180 days from the trial court's order, upon a showing of good cause.

"Given the underlying policy of avoiding forfeitures in favor of bringing defendants before the court, a trial court, faced with a section 1305.4 motion for extension, should draw all inferences in favor of the surety. [Citation.] The good cause showing under section 1305.4 is a low threshold for the movant. If the surety demonstrates good cause by showing due diligence in the initial 180 days, a reasonable likelihood of success of capturing the defendant in a subsequent 180 days, and any other relevant circumstances, the court should grant the motion." (*People v. Accredited Surety & Casualty Co., Inc.* (2006) 137 Cal.App.4th 1349, 1358 (*Accredited*).)

Nevertheless, an “extension is not automatic. [The surety] has to earn any additional time by a showing of good cause. That means an explanation of what efforts [the surety] made to locate [the defendant] during the initial 180 days, and why such efforts were unsuccessful.” (*People v. Ranger Ins. Co.* (2000) 81 Cal.App.4th 676, 681.) “[T]he surety [must] show its due diligence to locate a defendant and secure his or her presence in court. . . . [S]ection 1305.4 does not ‘giv[e] a surety carte blanche to sit on its hands for six months and then come running into court at the last minute with a bare-bones declaration that leaves huge gaps in the facts, and expect a trial court to simply roll over and give an extension.’ [Citation.] In order to show good cause for its extension, the surety must demonstrate that it diligently attempted to locate and capture the defendant during the initial 180 days.” (*Accredited, supra*, 137 Cal.App.4th 1349, 1356.)

We review for abuse of discretion the trial court’s ruling denying the motion for extension under section 1305.4. (*County of Los Angeles v. Fairmont Specialty Group* (2008) 164 Cal.App.4th 1018, 1028.)

We find that the trial court here did not abuse its discretion by denying a further extension to Seaview. When granting the first extension, the trial court noted that Seaview had “barely” demonstrated good cause. During the 90-day extension period, Seaview’s investigator, Singleton, largely duplicated the efforts already made by the previous investigators, Villegas and Bustamante, and made minimal efforts to locate Gonzalez.

Seaview argues that reversal is compelled by *People v. Alistar Ins. Co.* (2003) 115 Cal.App.4th 122. In *Alistar*, during the initial 180-day period, the investigator found a possible new address for the defendant and obtained the help of local police. He traveled to the defendant’s sister’s address and spoke with her. The investigator further determined that the defendant was likely still living in the vicinity of his family. In finding that the trial court abused its discretion by denying any extension beyond the initial 180 days, the appellate court determined that the surety presented sufficient evidence that the investigator “made a concerted effort to locate defendant.” (*Id.* at pp.128-129.)

In contrast, the trial court here did not deny Seaview an initial extension. Instead, Seaview was given a 90-day extension after the initial 180-day period had lapsed. The trial court reasonably expected Seaview to make further progress during this extension period. Singleton, however, merely repeated the work already done by the first two investigators.

Singleton called telephone numbers that Villegas determined were nonresponsive. He followed up on leads—such as the indemnitor’s purported work and home address—that Bustamante had eliminated. (See *County of Los Angeles v. Fairmont Specialty Group, supra*, 164 Cal.App.4th 1018, 1028 [denial of extension proper where investigator conducted surveillance at locations already determined unproductive].) Singleton made little progress in pursuing the one location that Bustamante discovered might be fruitful—the Lancaster property—and did not identify any further possibilities of locating Gonzalez. And Singleton did not make any attempt at locating the indemnitor in Reno until just before Seaview made its second extension request, even though Bustamante found the Reno address months earlier. Moreover, for approximately two months, from mid-October until mid-December, Seaview’s investigators did not visit any locations to attempt to locate Gonzalez. Given all of these facts, we cannot say the trial court abused its discretion by refusing to grant another extension.

The trial court’s order was further supported by Seaview’s failure to demonstrate a reasonable likelihood of apprehending Gonzalez within 90 days if an extension were granted. Although the Supreme Court is currently reviewing whether failure to show a reasonable likelihood of apprehension alone is enough to deny an extension (see *People v. Financial Casualty & Surety, Inc.* (2015) 239 Cal.App.4th 440, review granted Oct. 28, 2015 (S229446)), given the lack of diligence also present here, the trial court was justified in denying a further extension. As the trial court stated at the hearing, “So you put a new person on who did exactly the same thing that the prior investigator did. . . . No new hits,” and “Frankly, you just repeated the same efforts . . . point for point for point, exactly the same.” Because Seaview failed to establish that Singleton made reasonable progress on the leads already developed by the prior investigators, and failed

to produce any new leads, the trial court had ample basis to conclude that Seaview was unlikely to capture Gonzalez. This conclusion, coupled with the evidence of Seaview's lackadaisical investigation efforts, allowed the trial court to properly exercise its discretion to deny another extension.

**DISPOSITION**

The judgment is affirmed.

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BOREN, P.J.

We concur:

CHAVEZ, J.

HOFFSTADT, J.